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Message Text

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ACTION NEA-12

INFO OCT-01 ISO-00 L-03 CIAE-00 INR-10 NSAE-00 PA-04

RSC-01 USIA-15 PRS-01 SPC-03 SMI-01 TRSE-00 SS-20

NSC-10 JUSE-00 DRC-01 /082 W
---------- 008503
R 141805Z DEC 73
FM AMEMBASSY NEW DELHI
TO SECSTATE WASHDC 8512

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E.O. 11652: N/A
TAGS: SCUL, IN, US
SUBJECT: NORTON SIMON NATARAJA

BEGIN SUMMARY: JOINT SECRETARY FOR THE AMERICANS TEJA CALLED IN DCM DECEMBER 7 TO REQUEST USG ASSISTANCE IN OBTAINING RETURN TO INDIA OF THE SHIVAPURAM NATARAJA. I'VE TALKED TO TEJA AND TO NORTON SIMON (AND HIS REP-RESENTATIVE) ABOUT THE WHOLE PROBLEM AND THINGS SEEM TO BE MOVING TOWARD A POSSIBLE AMICABLE SETTLEMENT. BOTH SIMON'S REPRESENTATIVE AND INDIA APPEAR TO AGREE (AT LEAST AT THIS POINT) THAT THE NATARAJA WILL COME BACK TO INDIA. THE PROBLEM IS HOW AND WHEN. SIMON'S REPRESENTATIVE IS PLANNING TO COME OUT HERE FOR DIRECT DISCUSSIONS IN JANUARY. END SUMMARY.

1. TEJA PRESENTED THE DCM DEC. 7 WITH A SIX-PAGE AIDE MEMOIRE CONTAINING INFORMATION AVAILABLE TO THE GOI REGARDING HOW THE IDOL WAS SMUGGLED FROM INDIA TO THE US. ACCORDING TO THE AIDE MEMOIRE, THE IDOL IS COVERED BY THE INDIAN TREASURE TROVE ACT, 1878, UNDER WHICH LEGAL TITLE RESTS WITH THE INDIAN UNION. THE DOCUMENT TRACES THE NATARAJA THROUGH SEVERAL HANDS IN INDIA TO A CRATE OF PERSONAL EFFECTS BELONGING TO ONE P.C. JOHNSTON AND CARRIED BY JAPAN AIRLINES UNDER AIRWAY BILL NO.
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131-301-7520 TO NEW YORK, LEAVING NEW DELHI APRIL 23,

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1969 AND ARRIVING IN NEW YORK THE FOLLOWING DAY. THE IDOL WAS THEN DELIVERED IN THE US TO BENN HELLER. THE AIDE MEMOIRE ALLEGES THAT BECAUSE OF AN INCONSISTENCY BETWEEN THE DESCRIPTION OF THE CONTENTS OF THE CRATE AS INDICATED ON THE WAYBILL (PERSONAL EFFECTS) AND AN UNSIGNED INVOICE (ART OBJECT), ON THE BASIS OF WHICH THE IDOL WAS CLEARED THROUGH US CUSTOMS, "THERE WOULD SEEM TO HAVE BEEN AN INFRINGEMENT OF US CUSTOMS LAWS 541-542 CHAPTER 27 (US CODE 1964 EDITION), RELATING TO FALSE LABELLING AND DECLARATION FOR THE CLEARING OF GOODS."

2. THE AIDE MEMOIRE STATES THAT THE GOI WOULD GREATLY APPRECIATE THE THOROUGH INVESTIGATION OF THIS CASE BY THE US GOVERNMENT. IT WOULD FURTHER APPRECIATE AN EXAMINATION BY THE US GOVERNMENT OF THE POSSIBILITY OF INSTITUTING CRIMINAL PROCEEDINGS AGAINST BEN HELLER WITH A VIEW TO EFFECTING THE RESTORATION OF THE SHIVAPURAM NATARAJA TO ITS RIGHTFUL OWNER, THE INDIAN UNION. THE AIDE MEMOIRE CONCLUDES BY STATING THAT THE NATARAJA IS A PRICELESS AND INDISPENSABLE PART OF THE CULTURAL AND RELIGIOUS HERITAGE OF INDIA AND STATES THAT THE GOVERN-MENT OF INDIA THEREFORE ATTACHES THE GREATEST IMPORTANCE TO ITS EARLY RETURN. IT WOULD APPRECIATE US COOPERATION IN GETTING IT BACK "THROUGH CRIMINAL ACTION AGAINST THE CONCERNED PARTIES OR THROUGH ANY OTHER FEASIBLE AND APPROPRIATE MEANS."

3. I SAW TEJA MYSELF ON DECEMBER 13 AND TOLD HIM OF MY CONVERSATIONS WITH NORTON SIMON AND THOMAS HOVING WHEN I WAS IN THE US THE PREVIOUS WEEK. I SUGGESTED THAT IT MIGHT BE POSSIBLE TO ACHIEVE A SETTLEMENT OF THIS WHOLE QUESTION INVOLVING THE RETURN OF THE NATARAJA TO INDIA AFTER ITS EXHIBITION AT THE METROPOLITAN AND IN CON-JUNCTION WITH FURTHER DISCUSSION BETWEEN THE INDIAN AND US GOVERNMENTS ON HOW TO DEAL WITH PROBLEMS LIKE THIS IN THE FUTURE. THIS ESSENTIALLY SUMMARIZED WHAT I GATHERED WAS IN SIMON'S MIND ALTHOUGH I WAS EMPHATIC IN TELLING TEJA I WAS NOT COMMITTING SIMON OR THE US GOVERN-MENT OR ANYBODY ELSE BUT SIMPLY LOOKING AROUND FOR SOME CONCILIATORY AND AMICABLE WAY OUT OF ALL THIS WHICH WOULD
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AVOID PROLONGED AND INCONCLUSIVE LITIGATION AND RISK CREATING ANOTHER BONE OF CONTENTION BETWEEN THE US AND INDIA. TEJA WAS AGREEABLE TO EXPLORING ALL THIS WHILE BEING EQUALLY PLAIN THAT HE COULDN'T COMMIT ANYBODY ON HIS SIDE EITHER. I FINALLY SUGGESTED THAT PERHAPS IF NORTON SIMON SENT A REPRESENTATIVE OUT HERE SOME MORE PROGRESS MIGHT BE MADE. TEJA AGREED TO LOOK INTO THIS TOO AFTER THE EDUCATION AND CULTURE MINISTER RETURNS TO

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DELHI NEXT WEEK.

4. WE HAVE SPOKEN BY PHONE WITH BOB MACFARLAND IN LOS ANGELES (THE HEAD OF THE NORTON SIMON FOUNDATION) WHO SEEMS QUITE PLEASED AND SAID NORTON SIMON AGREED THAT HE SHOULD COME OUT TO DELHI FOR DIRECT TALKS WITH THE INDIAN GOVERNMENT. HE SAID TOM HOVING WAS ALSO CONSIDERING COMING OUT AT THE SAME TIME (EARLY JANUARY) SINCE THE MET IS CAUGHT IN THE MIDDLE OF THE DISPUTE, HAVING AGREED TO EXHIBIT THE NATARAJA (TO SIMON), AGREED NOT TO EXHIBIT THE NATARAJA (TO THE STATE DEPARTMENT), AND IS NOW BEING THREATENED WITH A MASSIVE LAW SUIT BY SIMON. THAT'S THE ART WORLD FOR YOU.

5. WE'VE POUCHED THE FULL TEXT OF THE TEJA AIDE MEMOIRE WITH ACCOMPANYING DOCUMENTS BACK TO NEA/INS MR. KUX AND HAVE ALSO SPOKEN BY PHONE WITH MARK FELDMAN IN L WHO HAS HANDLED PROBLEMS LIKE THIS IN THE PAST. WE'VE MENTIONED THE INDIAN AIDE MEMOIRE TO MACFARLAND WHO HAS EXPRESSED AN INTEREST IN SEEING IT. WE SEE NO PROBLEM IN THIS OURSELVES SINCE THE AIDE MEMOIRE DOESN'T ASK FOR ANY DIRECT US ACTION AGAINST SIMON, BUT IT'S UP TO YOU. WE'VE SUGGESTED MACFARLAND CALL KUX. MY IMPRESSION IS THAT IF SIMON AND THE GOI GET INTO DIRECT DISCUSSIONS AND CAN WORK OUT SOME AMICABLE SETTLEMENT, THE INDIAN GOVERNMENT HAS NO INTENTION OF PURSUING THE LEGAL QUESTIONS IT ASKS IN THE AIDE MEMOIRE. BUT I THINK YOU SHOULD LOOK INTO THE ANSWERS TO SOME OF TEJA'S QUESTIONS ON A CONTINGENCY BASIS.
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Draft Date: 14 DEC 1973
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Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
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Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
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Page Count: 3
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Subject: NORTON SIMON NATARAJA BEGIN SUMMARY: JOINT SECRETARY FOR THE AMERICANS TEJA
TAGS: SCUL, IN, US
To: STATE
Type: TE
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